

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KYLE D. LaMAY,

Petitioner,

Case No. 1:10cv692

v.

Hon. Robert J. Jonker

CARL HOWES,

Respondent.

ORDER
APPROVING REPORT AND RECOMMENDATION

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties on September 1, 2010. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge, filed September 1, 2010, is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that the habeas corpus petition is **DENIED**.

IT IS FURTHER ORDERED that a certificate of appealability from the judgment issued this date is **DENIED** because a reasonable jurist could not conclude either that the District Court erred in dismissing the petition for failure to exhaust or that the petitioner should be allowed to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE

Dated: October 20, 2010